



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,660	10/06/2003	Bradley J. Eldred		4115

7590 05/19/2004

Law Offices - Eric R. Benson, Esq.
Box 65238 - Champlain Station
Burlington, VT 05406-5238

EXAMINER

CHORBAJI, MONZER R

ART UNIT	PAPER NUMBER
----------	--------------

1744

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/679,660

Applicant(s)

ELDRED, BRADLEY J.

Examiner

MONZER R CHORBAJI

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 31, line 5; applicant uses the term "ext2ract". The specification does not provide any teaching for this term. In addition, the meaning of this compound is not clear. What does the applicant mean by the term "ext2ract"? Clarification is needed to understand the meaning of claims 31. In examining claim 31, the limitation "ext2ract" is considered as "extract".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-60 are rejected under 35 U.S.C. 102(e) as being anticipated by Terry et al (U.S.P.N. 6,596,401).

With respect to claims 1-3, Terry et al teaches a composition that includes a metal (col.13, lines 59-67 and col.3), a plant extract (col.16, line 2), and an alcohol (col.7, lines 43-45). The composition of Terry et al is used as an antimicrobial agent, i.e., disinfectant (col.6, lines 3-5).

With respect to claims 4-12, Terry et al teaches that the metal can be copper or silver ((col.13, lines 59-67 and col.3).

With respect to claims 13, 15, and 17-18, Terry et al teaches that the plant extracts can be selected from grapefruit see extract, i.e., angiosperms (col.16, lines 1-2).

With respect to claims 14 and 16, Terry et al teaches that the use of glycerol is known (col.1, lines 55-56). Glycerin is a synonym for glycerol.

With respect to claims 19-21, Terry et al teaches a method of manufacturing the composition (col.1, lines 10-11), which includes a metal (col.13, lines 59-67 and col.3), a plant extract (col.16, line 2), and an alcohol (col.7, lines 43-45). For example, see example 7.

With respect to claims 22-30, Terry et al teaches a method of using the disinfection composition including the following: it is known to infuse the mixture into a user selected item (col.3, lines 47-49), applying the mixture onto the surface of a user selected item (col.4, lines 55-57), and dissolving the mixture into a user selected liquid (col.6, lines 8-10 such that algae can grow in aqueous systems such that it is necessary to dissolve the composition in the liquid in order to inhibit its growth). with regard to the

concept of purification, Terry et al composition for example, purifies surfaces that may have algae thereon by inhibiting their growth.

With respect to claims 31-33, Terry et al teaches a method of manufacturing the composition (col.1, lines 10-11) by selecting a metal (col.13, lines 59-67 and col.14), selecting a plant extract (col.16, lines 1-2), selecting the alcohol (col.7, lines 33-35), selecting amines as a disinfectant compound (col.9, lines 4-47), and mixing the components together (a necessary step in order to form the composition).

With respect to claims 34-42, Terry et al teaches a method of using the disinfection composition including the following: it is known to infuse the mixture into a user selected item (col.3, lines 47-49), applying the mixture onto the surface of a user selected item (col.4, lines 55-57), and dissolving the mixture into a user selected liquid (col.6, lines 8-10 such that algae can grow in aqueous systems such that it is necessary to dissolve the composition in the liquid in order to inhibit its growth). with regard to the concept of purification, Terry et al composition for example, purifies surfaces that may have algae thereon by inhibiting their growth.

With respect to claims 43-60, Terry et al teaches a method of using the disinfection composition including the following: it is known to infuse the mixture into the surface of a user selected item (col.3, lines 47-49), exposing the mixture applied to surface using radiation light (col.2, line 43, col.13, lines 40-42), applying the mixture onto the surface of a user selected item (col.4, lines 55-57), and dissolving the mixture into a user selected liquid (col.6, lines 8-10 such that algae can grow in aqueous systems such that it is necessary to dissolve the composition in the liquid in order to

Art Unit: 1744

inhibit its growth). With regard to the concept of purification, Terry et al composition for example, purifies surfaces that may have algae thereon by inhibiting their growth.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 61-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry et al (U.S.P.N. 6,596,401) in view of Minerovic et al (U.S.P.N. 5,997,814).

The teachings of Terry et al have previously been set forth with regard to claims 1-60. With regard to claims 60-66, Terry et al fails to place the mixture in a filtration device in order to dissolve the mixture in a user selected fluid. However, Minerovic et al teaches placing the mixture in a filtration device such that the fluid that enters the apparatus, i.e., a user selected fluid, passes through a filter (22) and dissolves the mixture (powdered reagents inside cup C). As a result, it would have been obvious to one having ordinary skill in the art to modify the method of Terry et al to include a

Art Unit: 1744

filtration device in order to provide a source of sterile water by passing water and blocking the passage of all particles the size of microbes and larger (Minerovic et al, col.5, lines 5-7).

Conclusion

8. The prior art made of record but not relied upon is considered pertinent to applicant's disclosure. Margolin et al (U.S.P.N. 6,541,606) teaches similar composition.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 8:30-5:00.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT J WARDEN can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/679,660
Art Unit: 1744

Page 7

Monzer R. Chorbaji *MRC*
Patent Examiner
AU 1744
05/09/2004

Terrence R. Till
Terrence R. Till
Primary Examiner